

# COAC IPR Surveys For Right Holders, Licensees And Parallel Importers

Dear Trade Association Executive:

CBP is exploring several new concepts as part of its 5 Year Intellectual Property Rights Strategy that may affect your members' businesses. A copy of that Strategy through which CBP plans to enhance both its enforcement and facilitation efforts is attached to this letter. CBP's Commercial Operations Advisory Committee's IPR Enforcement Subcommittee is working closely with CBP to explore the viability of some of those concepts including both an IPR Partnership Program for licensees and parallel importers modeled on the Customs Trade Partnership Against Terrorism (C-TPAT) program and a distribution chain management solution to IPR enforcement for right holders, licensees and parallel importers.

The COAC IPR Enforcement Subcommittee is seeking comment on the above concepts from the trade through two surveys. An outline of each concept is included in each of the surveys. We are asking you to reach out to your members encouraging them to complete the surveys using the below links. The surveys are anonymous and the information we are collecting is critical toward insuring the COAC's recommendations meet the business needs and solve many of the challenges facing your members today.

**IPR Partnership Program Survey** <http://www.surveymshare.com/s/AQA9JAA> - to be completed only by licensees & parallel importers

**IPR Distribution Chain Management Survey** <http://www.surveymshare.com/s/AQAMJDB> - to be completed only by right holders, licensees & parallel importers

Questions and comments regarding the surveys may be directed to the COAC subcommittee chair, Karen Kenney, at [kkenney@libertyint.com](mailto:kkenney@libertyint.com). Comments and surveys must be received by November 4, 2011. Again, all responses will be kept confidential and respondents need not include their company name nor contact information on the survey response.

Please take some time to forward these survey links along with a copy of CBP's IPR Strategy to your members today asking any right holders, licensees and parallel importers to complete them as soon as possible. We want to insure the business needs and challenges of your members are considered in our final recommendations.

Thank you for your time,

Karen Kenney & Scott Childers  
On behalf of the COAC IPR Enforcement Subcommittee

# COAC IPR Partnership Program Survey For Licensees And Parallel Importers

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1) Please indicate whether you are a licensee or parallel importer:

- ☐ Licensee
- ☐ Parallel Importer

2) Estimated number of Customs entries per year.

- ☐ 1-50
- ☐ 51-100
- ☐ 101 - 500
- ☐ 501- 1000
- ☐ More than 1000

3) The COAC IPR Enforcement Subcommittee is exploring the viability of an IPR Partnership Program for licensees and parallel importers modeled on the CTPAT program.

The IPR Partnership Program would include both licensees and parallel importers. Program participants would need to:

- Demonstrate the controls they have in place to insure the authenticity of the goods they are importing and how they determine whether goods are authentic.
- Demonstrate the legitimacy of their license agreements and be able to give CBP a very high level of confidence that they have the controls in place to keep track of and not exceed the life of any licensing agreement.
- Demonstrate good internal physical security controls and controls to insure goods are non-infringing.

Validation & Benefits:

- Checking for infringing goods or shipments outside of licensee effective dates and periodically confirming license agreements with right holders would likely be part of the validation process.
- This would be a risk mitigation solution as part of a layered approach to IPR enforcement.
- This would lower the targeting profile for the importer, better segmenting risk for CBP and speeding the release of legitimate goods.
- The program would come with assurances of confidentiality and Non-disclosure of any information provided to CBP by the importer.

Do you believe the above concept is viable for your company?

Yes  
No  
Unknown

4) How likely is your company to participate in such a program?

Very Likely  
Somewhat Likely  
Unlikely  
Unknown

5) Please list any comments, suggestions or potential challenges for your company related to the concept:

6) If you are uncertain if this concept is viable for your company, or whether your company would participate, what additional information would be needed for you to make a decision?

# **COAC IPR Distribution Chain Management Survey for Intellectual Property Right Holders, Licensees and Parallel Importers**

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1) What commodity(s) does your company import? (Please check all that apply)

- ☐ Consumer Goods
- ☐ Electronics
- ☐ Information Technology
- ☐ Entertainment Media (games, software, movies, CDs)
- ☐ Textiles
- ☐ Apparel and Footwear
- ☐ Pharmaceuticals
- ☐ Aerospace/Defense Articles
- ☐ Other: \_\_\_\_\_

2) Please identify if you are a (please check all that apply):

- ☐ Rights holder
- ☐ Licensee
- ☐ Parallel importer

3) Estimated number of customs entries per year:

- ☐ 1-50
- ☐ 51-100
- ☐ 101-500
- ☐ Over 500

4) One concept is to explore the use of serialization for authentication.

- The right holder or its designee could generate a code or token that would be passed through the supply chain at the shipment level.
- This would be a pre-release solution whereby the shipment level code or token is passed to CBP electronically.
- If codes or tokens exist at the item level, they could be aggregated to a single code at the shipment level for authentication by CBP.
- This method could be used for any product type.
- That token would be used throughout the supply chain to authenticate the goods.

- This code or token, generated by the right holder or its designee, could also be passed to its licensees and/or manufacturers.
- That code or token could be passed through the supply chain from point of manufacture through to delivery at final destination.
- A service could be provided by the right holder or by its third party designee that could be contacted by CBP electronically to authenticate any shipment.
- CBP officers in the field could use this method to authenticate any product.
- The process could allow CBP or other authorized parties to look back into the code or token to learn where the shipment came from, which supplier was authorized to make it, the party to whom the goods were sold, etc.
- In order to safeguard trade secrets, the authentication information would be recorded in a coded number. Right holder access to information provided to CBP would be restricted.

Do you believe the above concept is viable for your commodity?

- ☐ Yes
- ☐ No
- ☐ Don't Know

Please provide your comments

5) How likely would your company participate in such a program?

- ☐ Very likely
- ☐ Somewhat likely
- ☐ Unlikely
- ☐ Don't Know

Do not know (please provide additional information you would need to make a decision)

6) Please list any comments, suggestions or potential challenges for your company related to

**For Rights Holders only, please answer these additional questions (7, 8 and 9)**

7) Would your company have the ability to generate its own codes or tokens?

- ☐ Yes
- ☐ No
- ☐ Don't Know

Please provide your comments

8) Would your company have the ability to host an authentication service?

- ☐ Yes
- ☐ No
- ☐ Don't Know

Please provide your comments

9) If your company is unable to host an authentication service, would you be willing to use a 3rd party host?

- ☐ Yes
- ☐ No
- ☐ Don't Know

Please provide your comments